
Draft Zoning and Development Code: Comments

NOTE: All public comments below were received for the Draft Zoning Code from July 17 to Oct. 3, 2003. Comments have been organized by section of the code and comment topic. Bullets represent input from different individuals.

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CPTED

- While the concept of Crime Prevention Through Environmental Design (CPTED) is appealing in theory, it is problematic in practice. Often, CPTED requirements conflict with current City building codes. To address these inconsistencies, the Chamber suggests the following:
 - CPTED guidelines include a clear set of objectives giving the builder latitude for meeting those objectives,
 - CPTED objectives should be incorporated into the City building codes,
 - The CPTED review should be at the beginning of the building code process to help developing businesses clearly understand what is required to meeting CPTED objectives,
 - CPTED use a three tiered formula of requirements, suggestions and desires for compliance whenever possible

Crime Prevention / Security Plan Appendix

- the Tempe Police Department recommends that the following information be provided in the appendix section of the new Zoning Ordinance.

The Tempe Police Department fully supports the Crime Prevention Through Environmental Design (CPTED) philosophy of crime prevention. With the cooperation of the city's Development Services Department the CPTED principles of crime prevention, as practiced in the City of Tempe, have been fully integrated into the city's new Zoning Ordinance. With the completion of this task the Development Services Department has assumed responsibility for the administration and maintenance of the city's CPTED principles. The Police Department supports this reorganization and stands ready to assist the Development Services Department in any and all CPTED related concerns that may arise in the future.

To insure the continued use of the five overlapping principles of CPTED it is imperative that they be included in this addendum to the Zoning Ordinance.

The CPTED principles are:

1. Natural Surveillance

Natural surveillance is the CPTED concept that encourages an open design. It promotes opportunities for people, as they are engaged in their normal behaviors, to observe the space around them.

This principle allows people to feel comfortable as they use a space, maintain distance from intruders that may be in or near the space, and encourage observation of those individuals that may be using the space with criminal intent.

Natural Surveillance encourages the design and placement of physical features so as to maximizes visibility. This includes building orientation, placement of windows, building and site entrance and exit locations, refuse containers, landscaping materials, parking lots, walkways, walls and fences (including the use of wrought iron and similar materials that promote visibility), signage, and other physical obstructions. It may also include the placement of persons or activities to maximize surveillance possibilities.

Minimally maintained lighting standards that provide for nighttime illumination of parking lots, walkways, entrances, exits and related areas, to promote a safe environment, are also Natural Surveillance components of good CPTED design.

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2. Access Control

Access control is the CPTED principle directed at decreasing criminal accessibility. This principle is especially important where intruders will not be easily observed. Fences, walls, and actual building location on a site are primary considerations to access control. However, provisions of access control must encourage the use of natural surveillance, where practical, to restrict criminal intrusion into an area.

Intruders are more readily recognized through the proper location and use sidewalks, pavement variations, gates, lighting, signage, fencing, landscaping and other techniques used to clearly guide the public to and from activity areas and are primary to effective access control.

3. Activity Support

Activity support involves the placement on activities where the individuals engaged in those activities become part of the natural surveillance and access control systems. Examples include:

Placement of safe activities in areas so as to discourage would be offenders. The goal is to increase the likelihood of good natural surveillance and the perception of safety for normal users, and the perception of risk for the offenders.

Placement of high-risk activities in safer locations to overcome the vulnerability associated with these activities through the use of good natural surveillance and access control techniques.

The location of gathering areas in places that provide good natural surveillance and access control.

4. Territoriality

Territoriality is the CPTED principle that is used to clearly delineated private space from semi-private and public spaces. Properly used it creates a sense of ownership in private and semi-private areas.

Territoriality creates an environment where strangers and intruders stand out and are more easily identified. This is accomplished through the effective use of signage, grade changes, fencing, landscape edging, lighting, and any number of imaginative techniques that encourage individuals to take pride in their surroundings and report criminal activity.

5. Maintenance

Proper maintenance of landscaping, lighting, addressing, and other features can facilitate the principles of CPTED. It is clear that Access Control, Natural Surveillance, and Territoriality all have a maintenance component. Examples:

Proper maintenance of security lighting to insure that lamps are working properly and the required minimum lighting level are being maintained.

Landscaping which is maintained to prescribe standards so as to minimize conflicts between natural surveillance opportunities and landscaping at maturity.

The recognition of these principles should help guide owners, architects, planners, and developers of property to design built environments that accomplish the goals the police department's crime prevention goals.

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Security Plans

Chapter 11, Article III, Sec.11-30. Of the Tempe City Code

(a). Purpose.

Security plans shall be established for particular uses to address vehicular and pedestrian traffic, control disruptive behavior inside and outside of premises, prevent deterioration of neighborhoods, and assist in providing an environment that enhances safeguards of property and public welfare while reducing the necessity for calls for service from law enforcement agencies.

(b). Uses requiring security plans.

The following uses, as defined in the zoning ordinance, in addition to any other uses determined by the development services department or the police department to be similar to these uses, shall require a security plan prior to issuance of a use permit or city license:

- (1) Bars, cocktail lounges, taverns, discotheques, nightclubs and similar businesses.
- (2) Adult-oriented businesses.
- (3) Recreational or amusement businesses, both indoor and outdoor activities.
- (4) Entertainment as accessory to restaurant facilities, bars or similar establishments.
- (5) Hotels and motels
- (6) Convenience stores

(c) Security plan submittal.

Every applicant for a use requiring a security plan shall furnish to the police department's security plan administrator the following information.

- (1) Plan of operation, program plan and hours
- (2) Site and building information
- (3) Safety conditions
- (4) Patron parking, ingress and egress, vehicular and pedestrian traffic control
- (5) Staffing and operations
- (6) Conditions of plan

(d) Appeal

The appeal procedure is as follows:

- (1) If an applicant for a security plan approval is dissatisfied with the decision of the security plan administrator the applicant may administratively appeal any decision to the chief of police, of the police department, within five (50 days of receipt of the decision. The chief of police, or a designated representative, may modify the conditions of approval of a proposed security plan and shall render a

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decision within five (5) working days of receipt of request for review.
(2) If an applicant is dissatisfied with the administrative review by the police department, the applicant may file an appeal in writing with the city clerk to be heard by the city council. Any appeal shall be filed within ten (10) days of receipt of the decision of the police department, setting forth the reasons why the decision should not be implemented.
(3) The city council, acting in its legislative capacity, may modify or remand the decision of the police department.

(e) Violations and penalties

No person shall operate a use, which requires a security plan, in the absence of such required security plan or in a manner which violates a security plan required by this article, and is punishable as set forth in Chapter 1-7 of the city code. Each individual day of operation in violation of this article shall be a separate violation.

(Ord. No 97.65, 11-20-97)

Density

- Density of housing units should be co-ordinated with access to arterial streets, bearing in mind that even a one-bedroom apartment may generate 2 or more vehicles.

Eminent Domain

- Concern - Eminent Domain (taking houses for private development)

General

- Include standards of sustainability when establishing standards of quality.
- My conclusion after reviewing the Preliminary Draft of the Zoning and Development Code, dated June 2003, is that the Zoning and Development Code will be governed by the intentions and provisions of the General Plan. If the 2030 General Plan is adopted by the voters of Tempe, the General Plan will be a legal binding document and will create new legal authority for the City of Tempe to enforce its directives.

Some Examples from the June 2003 draft of the Code, which substantiate this:

Section 1-201

Purpose and Intent

This code is adopted to implement Tempe's General Plan ---

Section 1-204

Consistency with the General Plan

All development, uses, and district changes in the City of Tempe shall be consistent with the Tempe General Plan as implemented by this Code. All provisions of this Code shall be construed in conformity with the adopted General Plan.

Section 1-308

City Council

B. Duties and Powers. For the purpose of this Code, the City Council will have the following powers;

1. Hear and decide requests for subdivisions, amendments to the General Plan, code text or zoning map

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amendments, and use permits, variances, and PAD as applicable;

2. Hear and decide appeals of decisions of the Planning and Zoning Commission, Redevelopment Commission, and Design Review Board; and

3. Council may prescribe in connection with a request noted in subsection 1 and 2 above, conditions as the council may deem necessary, in order to fully carry out the provisions and intent of the General Plan and this Code. Violations of any such conditions shall be a violation of this Code.

Southwest Tempe Overlay District

Section 5-202 General Regulations

A. Land Use

(last sentence in paragraph)

In the granting of use permits the decision making body must find that the proposed use is compatible with the overall intent of the Tempe General Plan.

Section 6-305

Zoning Map and Code Text Amendment

A. Procedure.

4. Planning and Zoning Commission or Redevelopment Review Commission Review and Recommendation. The commission shall review the request and make a recommendation to City Council in a public hearing. The recommendation of approval of any amendment by the commission shall be based on a finding of consistency and conformance with the General Plan and may include conditions of approval.

Section 6-309

Use Permit

A. Purpose

The purpose of Section 6-309 is to insure the orderly use of land in conformance with the General Plan and applicable city standards where uses are proposed that may require special limitations or conditions to provide compatibility with other uses.

Commentary:

I am very concerned with the marriage of the Tempe Zoning and Development Code and the 2030 General Plan.

While it is desirable to consistently cross reference related documents. And while the Zoning and Development Code does appear to consistently and frequently cross reference the General Plan, we must be very careful about the content of not only the Zoning and Development Code but even more importantly the 2030 General Plan. The Zoning and Development Code states over and over again that the Code is adopted to implement Tempe's General Plan and that the Code must conform and be consistent to fully carry out the provisions and intent of the General Plan.

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The current 2020 General Plan has been viewed more as a guiding tool, regarded many times as outdated, and it is certainly without teeth to force implementation. The 2020 General Plan was not voted on by Tempe citizens but approved by the Tempe City Council.

Tempe is land-locked. Development opportunities are viewed by some to be limited. Re-development is the new buzzword. The Code rewrite implements the new Redevelopment Review Commission. The Zoning and Development Code and the 2030 General Plan are being drafted to promote density and infill.

The newly formulated 2030 General Plan will come to a vote of the citizens in 2004, as now required by law. Once a General Plan has been approved by the voters of Tempe, this will give the Tempe City Council, Planners, Developers, etc. the green light to aggressively pursue the Land Use designations and intentions specified in the 2030 General Plan.

We must all pay serious attention to the new Land Use classifications and area designations. Be especially concerned when our neighborhood is designated and color coded with a denser classification (more units per acre). Be concerned when different zoning classifications are lumped into one allowing densities ranging from 10, 20 or 30 units per acre to unlimited density per acre. Correct, unlimited density to be determined on a case by case basis.

If a developer and or the City want to up the density (increase the tax base and the value of the development), and it does not conflict with the General Plan, as loosely specified with color coding, it will be much easier to implement. Remember, they must follow the intent and provisions of the General Plan. When different densities are possible within a given grouping (color coded area) we are told that the underlying zoning prevails. We are told, "Oh, that would take a zoning change, not to worry." I'm sorry, we should take notice, before our neighborhoods and lifestyle are impacted.

- Don't sacrifice height for space (don't raise height to get more Open Space). If buildings and height are raised, what will this do to resident taxes to pay for increased/better city services (ex: bigger ladder trucks for fire protection).
- Keep open space requirement as it is in existing code (do not reduce)
- Get more neighborhood input in a village concept (Phoenix), so that the neighborhood has weighted input to determine what goes on/into their neighborhood. Need Charter amendment, 1 = vote of neighborhood to Council votes (7) Council.
- Recommend that the GP2030 must first be voted upon and approved by the electorate before the zoning rewrite is adopted (without voters approval)
- The assumptions of the zoning rewrite is wrong: "1974 zoning code built upon a growing area. Now we need to rewrite to accomodate growth". Originally zoning was based on QOL (quality of life). Now QOL is no longer the top priority. Instead it is that development, tax revenue and bringing in people is the priority. Zoning Rewrite is a laundry list for developers: their wish list. Q: What is generating this Rewrite? Rec: Ask Tempe citizens Are you willing to trade QOL? (Instead of assumption to pop to revenue (sic)). Say, look: We can't afford some of these projects.
- Ordinance must incentivize and define sustainability.
- Below are comments related to sections of the current draft of the Zoning and Development Code (June 2003). Some of the issues were addressed and/or discussed as part of previous open house and neighborhood association meetings.

Comments related to citizen involvement in the Planning and Zoning Commission hearing process for project applicants:

Applicants which require a Preliminary Review process are only "encouraged" to meet with neighborhood associations. As the language is currently written, an applicant may abuse this request by calling a meeting at a particularly inconvenient or impossible time for residents and/or contacting only one or a small number

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of residents who may or may not be currently active in the association. If the web site is an indication, the city does not maintain an up to the minute listing of neighborhood association chairs. In order to prevent these potential abuses, (1) a meeting with neighborhood associations should be required as part of the Preliminary Review process. (2) Applicants should be required to attend a regularly scheduled neighborhood association meeting if one falls within the review timeline. (3) A definition of what constitutes an adequate neighborhood association meeting needs to be stated in the document in order to remove subjective interpretations.

I support making lot assemblage re-plats a public hearing process. It's one of the first steps in the ongoing razing of our neighborhood.

In keeping with the idea that "one size does not fit all", notification distance of projects should be proportional to the size of the project.

Comments related to SAP procedures:

The reliance on private property owners both ignores the problems of absentee and/or unscrupulous landlords and removes non-owner residents from the process. This seems to be inconsistent with many other areas in the document (see below for more discussion). The support percentage (33%) should be more inclusive of actual residents. This would also mitigate the potential for one person to decide the fate of an entire neighborhood. Because as the code is now written, it seems that each property carries a vote, instead of one vote per person/resident. Additionally, the property owners may reside anywhere (even outside Tempe) and still retain a majority number/percentage of votes. There should be limits on the percentage of total possible neighborhood votes wielded by a single individual. I suggest something like 10% for a property owner living in the neighborhood developing the SAP, 5% for a property owner living in Tempe, and 1 vote (regardless of the number of properties owned) for anyone living outside of Tempe. Hopefully this will have the added benefit of discouraging absentee landlordism, a root cause of many resident woes.

Suggested changes also include the potential for 20% of property owners in an area that includes the neighborhood and 150 ft around the neighborhood to halt the SAP. This additional area (the 150ft border) must be removed from the percentage. Including a border area only exacerbates the single ownership problem described above. Also, land uses which may be markedly different from residential (such as industrial, as in the case of the Riverside/Sunset neighborhoods), could use this as a mechanism to forever halt SAP's. In general, it is of questionable appropriateness to have such a one-way mechanism for halting an SAP.

General comments on the rights and roles of residents, citizens, and property owners:

The general language of the document is not clear and/or possible inconsistent on the rights and distinctions between these three. For example, project notification is required for a resident of a neighborhood, yet property owners are the only ones involved in the SAP process. As property becomes less affordable in north Tempe (one of the areas of least affordability in the entire metro area according to the Phoenix 2100 Project), involvement of actual residents in the functions of the city becomes more important.

- Densify and renovate certain areas, increase transit services and bike paths taking pressure off of outlying areas.
- Concerned that with ASu and City taking homes for development, will there be affordable housing in Tempe? Home owners rights!
- Eventhough, I was not part of discussion group II on the public open house on Zoning & Development Code (9-10-03), I would like to go on record to support all their points that they brought up. Over all their points helps to control, slow, and limit large development from getting a (sic)way with the city without neighborhood input.
- Make sure any vote in a neighborhood issues requiring residential input: vote is not per lot but 1 per area

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owner

- Concern: The large quantity of shopping centers are being abandoned by their "anchor" businesses. Can code be revised to prevent the over population of specific businesses-grocers, drug stores, etc.?
- Incentivize "Leed Certified" and "Leed Benchmarked" buildings

General comments from Open Houses

- Some issues were brought up at the Open House I attended that I would like to comment on.

I like the idea of the hearing officer meetings to be after hours so more citizens can attend.

I like the idea of replats (lot ties) being a public hearing.

Historic Overlay

- Need historic overlay district designation to prevent developers from overtaking these historic areas.

Land Use

- Residences and schools close to industrial - hazardous chemicals

Pedestrian Overlay District

- Pedestrian oriented design standards enhance the ability of mass transit to serve the public and attract customers to area businesses. Pedestrian oriented standards also enhance the ability for the Phoenix/East Valley Light Rail system to attract federal matching funds. While the Chamber is not opposed to the removal of the pedestrian overlay district (POD) from the zoning code rewrite process, the Chamber is concerned that additional delay of the POD will jeopardize funding of the light rail project.
- Put POD in plan.

Quality Study

- Retire the Quality Study.

Rental Housing

- Need public hearing on residential family areas turning into student rentals and other rentals. Numerous homes are turning into run down neglected yards dying trees, bushes, lawns, numerous vehicles. "Landlord" of rentals need to post codes for their renters like: Rental Codes: 1. No Parking on lawns 2. Car washing on lawns 3. Number of cars in yard 4. Noise 5. Up keep of front yards.
- Student rentals in R1-6 problem - no means of enforcement in number of residents/cars. (fourteen people concerned)
- Single family dwelling rentals - Restrict the number of rentals in a given area (subdivision, or street, etc.) to a given percentage of the houses within that area. If at the time this percentage went into effect and the number of rentals exceed that then let the number of rentals stand. However as rentals are sold then the new buyer could not rent the property, until the number of rentals in the area dropped to or below the allowable (or maximum) percentage.
- Fundamentally - why allow rental houses in single family zoning?

1-102

Purpose and Scope

- Paragraph A.

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Suggest that the location of the Crime Prevention Appendix be identified immediately after the word crime prevention in this paragraph.

1-103 D

- Add "Design" as a standard.

1-300

Boards & Commissions

- Comment: New code should require members of Commissions, Boards etc. (advisory committees) to have no substantial conflict of interest in the proceedings which they review. Also require them to be residents.
- Expand involvement on City Boards and Commissions of citizens/resident(s) who are not otherwise involved in the development process.

1-303

Hearing Officer

- A. While the hearing officer is to be appointed by the City Attorney no criteria is listed specifying the Appointee be an employee of the City Attorney. The Appointee could come from outside the Attorney's staff without accountability to the public or to the city. No mention is made as to term of office or removal from office.

D. Appeals of the Hearing Officer's ruling shall be heard "de Novo" by the Board of Adjustment. The BA will hear any appeal or an alleged error in a decision in interpretation of enforcement of this Code.

1-304

Approval Criteria

- Clarify the criteria for approval/disapproval process that Board of Adjustment & Hearing Officer use.

Variances

- Variances should be handled only by the Board of Adjustment. (This can include preliminary hearing at Hearing Officer; appeal to Board of Adjustment; subsequent appeal to Superior Court.)

1-304 D

Superior Court Appeals

- Page 1-10 D.
Refers to Section 6-803 as a reference to Superior Court Appeals. That section makes no mention of Superior Court Appeals.

1-304, B. 1

Inconsistent terminology

- The sentence reads "Hear appeals from any decision made by the zoning administrative hearing officer". Above this are two sections, one that references the zoning administrator and the other references the hearing officer. Seems as though this is a new term that has been introduced. Should this be "zoning administrator or hearing officer" or just "HO"?

1-305

Planning & Zoning Commission

- Expanded authority of Planning Commission should be clearly defined.

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Planning and Zoning Commission

- Suggest that the word "secure" be added to the list of items that PZ will consider when reviewing a new development.

1-307

Design Review Board

- Suggest that the word "secure" be added to the list of items that DRB will consider when reviewing new development.

2-102

MHS, RMH, and TP Zoning Districts

- If the real purpose of these zoning districts is to provide affordable housing, that need could be addressed with condominiums, townhomes, patio homes, and with one mobile home residential district. The existing mobile home and trailer parks should be allowed until the property owners decide to change the land use and redevelop those properties. The Manufactured Housing Subdivision (MHS) is unnecessary. The only ones existing in Tempe are displayed as model homes at the north west corner of University Drive and 101 Freeway.

The idea is not to eliminate mobile home parks but to eliminate unneeded labeling in our Zoning Ordinance documents. Realistically, when the mobile home owners do not own the lot where their unit is on, there is a potential risk for those residents when some day the overall property owner decides to sell his/her property to a commercial or residential developer. This may happen soon to the residents of the Tempe Cascade Mobile Home Park. The property owner would like to change that property to a potential commercial opportunity. The intent of those districts was to provide a transitional land use. That statement is more typical in other surrounding cities but in Tempe, mobile home parks appear to be more stable. Unfortunately, the older mobile home parks tend to have more water, sewer, and maintenance problems. In order for Tempe to provide affordable housing, a more efficient use of the land should be implemented by increasing density and encouraging home ownership without compromising quality.

Therefore my recommendation is to combine the MHS, RMH, and TP into a single category: Mobile Home Residential (MHR).

3-100

Land Use

- Examples of allowed uses, or more uses listed to eliminate the need for so many similar use situations.

Use Permits

- Do similar use require a Use Permit?

3-102

Allowing chickens and small animals as pets

- I oppose the proposal to allow chickens as pets in residential areas. Hens can make a considerable amount of noise, especially when marauding stray cats are in the vicinity. Regarding rabbits, I don't especially have a problem with them. But if these are allowed, where will it stop?

Amateur Radio Antenna

- Suggestions for tower zoning for Amateur Radio----Tempe

Change Tables 3-102, 3-202A, 3-202B, 3-302A. from current

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Amateur Radio Antenna

35 feet in height or less: P P P P

Over 35 feet in height: U U U U

To read as follows:

Amateur Radio Antennas

70 feet in height or less: P P P P

Over 70 feet in height: U U U U

Comments:

In the appendix of definitions Amateur Radio needs to be defined:
A Federally Licensed Radio Service.

One of the many state laws reads as follows:

"No zoning ordinance or by-law shall prohibit the construction or use of an antenna structure by a federally licensed Amateur Radio operator. Zoning ordinances and by-laws may reasonably regulate the location and height of such antenna structures for the purpose of health, safety, or aesthetics; provided however that such ordinances and by-laws reasonably allow for sufficient height of such antenna structures so as to effectively accommodate Amateur Radio communications by federally licensed Amateur Radio operators and constitute the minimum practicable regulation necessary to accomplish the legitimate purposes of the city or town enacting such ordinances or by-law."

Where lawsuits have been filed against restrictive ordinances the landmark Amateur Radio cases show 65 to 75 feet as being reasonable. This is bound to become a [problem sooner or later if not recognized in the present rewrite of zoning code. With a 35 ft limit I think it is only a matter of time before someone goes to court to fight this. Such action is being taken much more often.

One of the key phrases in the above paragraph---reasonably allow for sufficient height to effectively accommodate Amateur Radio---I don't think 35 ft would qualify.

Additional comments

It might be noted that cell phone antennas are an indication of necessary height for effective performance.

Towers are generally manufactured in 10 or 20 ft sections. So the present 35 ft limit poses a problem as it is. A 30 ft tower would probably be all that could be put up. This would hardly clear some houses. I think it should be at least a multiple of 10 ft.

If someone wants a neighborhood free from antennas there are plenty of places with deed restriction etc., where those restrictions prevail. Houses around me have changed hands in the last 40 years and no one has ever indicated my tower had any affect on property values.

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I believe Mesa has 70 ft fixed tower limitation. Maricopa County has something like a 100 ft limit. Gila County has a 70 ft Limit.

One of the reasons for the height is to get above trees (Palm and others) and High voltage power lines which negatively affect performance of antennas.

The additional height also should allay fears of any radiation expose. Which in most cases is negligible anyhow.

The additional height puts the antenna further away from situations where it may cause interfere in home electronic devices. This is not the problem of the amateur in most cases, but that of the device manufacturer, according to the Federal Communications Commission.

Location restrictions, such as in the rear yard, guy anchors to be no further toward the front of the lot than the building setback. Anti climb device requirements are perfectly acceptable.

I think there are numbers greater than 35 and less than 75 that at least would delay legal actions by someone and still be good.

Chickens

- Interesting that roosters are prohibited, but barking dogs are allowed and wandering cats.
- Opposed to allowing chickens as pets.

3-201

Mixed Use

- MU designation unclear. Impossible to determine the intensity or scale of the underlying zoning category. Recommend: Break it down in specific areas by MU-1, 2, 3, or 4.
- At least one of the MU districts should require, not just allow, a mix of uses. This will give additional opportunities (more tools in the box) to bring neighborhood needs and developer needs to a mutually beneficial resolution, an MU district that requires mixed uses offers more certainty than those districts that simply allow mixes.

3-201 B. 6

Mixed Use

- At least 1 of the MU districts should require mix of uses - commercial and residential.

3-202

Brewery

- Brewery, CC district Use Permit. "Even as part of a restaurant"

Hotels and Motels

- Hotels and Motels: CC district, Use Permit. Why not?

3-202A

Radio Transmitting Towers

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- Radio and Television Studios with Receiving and Transmitting Towers: CC district, Not Permitted. Why not?

Resaurants

- Resaurants, Entertainment as accessory use: CC district, Use Permit?

With liquor license (a) Security plan required. "Do all cities require this?"

Surface Parking

- Parking, Commercial Surface: CC district, Use Permit. Not all parking will be structured!!

Wireless Telecommunications

- Wireless Telecommunication Facilities, Use permit Required in Industrial Districts. Could be a problem.

3-202B

Entertainment

- Entertainment, Outdoor/permanent use: MU-4 Not permitted. Existing District today plans outdoor entertainment.

Parking

- Parking, Commercial Surface: MU-4 Use Permit required. Both existing MU-4 sites will/and does have it. Albiet a very small amount. If part of PAD, then no use permit required?

Schools

- Schools, Private & Charter: may include dormitories, MU-4 Use Permit required. NO

3-302

Industrial retail

- Retail Commercial Operations - directly related to the primary industrial use may be permitted, provided they do not exceed 15% of the primary industrial use: OBD Not permitted. Concerned with the 15%, do internet sales count? How is this monitored?

3-302A

Land Use

- List Public Facilities in Industrial.

Warehouse

- Warehouse: OBD, Not permitted. Whoa! There are huge definitions in warehouse. Let's discuss!

3-401 (C & D)

Accessory Buildings

- Why the different wording between C.(Building) and D.(Structure)? The wording should be consistent. Rewording of D: An accessory building shall be located no closer to the front property line than the distance required for the front yard setback, be limited to a maximum one hundred twenty (120)s.f. in floor area and shall be equal to or less than eight (8) feet in height; an accessory building may encroach into the rear, side and street side yard setback, provided it meets all the requirements of the building code and the following standards are met:

What happens when the accessory building exceeds 8 feet in height?

Section Comment

3-402

Accessory Dwellings

- Accessory Dwelling - Refer to Definitions -

Section 7-102

"A" Definitions

Accessory Dwelling means a small secondary LEASABLE housing unit on a lot with a single-family dwelling.

Comments: Currently, in the Code rewrite, Accessory Dwellings are only to be allowed in Multi-family districts with single-family residences.

Since the Definitions define that these dwellings are LEASABLE, I must strongly suggest that they indeed be counted towards DENSITY. How can you encourage additional rentals and not address parking issues, and count these dwellings when considering all planning issues regarding density? They should count towards density!

Additional Comments:

Fred, in your memo dated July 8, 2003, subject: Executive Summary for Code Rewrite, on the third page, third paragraph, last line, you stated:

(Regarding Accessory Dwelling Unit (ADU)) Quote "The idea is to try this concept in these areas and then we can expand it to other zoning districts if it works."

We have gone round and round about this issue in CAC Citizen Advisory Committee meetings. I thought we were in agreement that Accessory Dwelling Units do not belong in regions zoned Single Family Residence. We do not need additional rentals in our neighborhoods. I have copies of my extensive argument regarding this "Pandora's Box concept". We do not need the additional crime, traffic, safety concerns, party houses, traffic down our alleys, decline in our quality of life and so forth. Can I make it any clearer? We do not want this in our single family neighborhoods!

- Accessory dwellings (should) count toward density, present and future.

What other zoning areas area potential for accessory dwellings?

Concern, future rentals from ADU's.

- The draft does not address density problems when the principal single family house in a multi-family zoning is demolished and a multi-family building is constructed after an ADU is built. In that scenario we will be allowing 1 more unit than the standards in section 4-202 will allow.
- No "Accessory dwelling units" in R1. Defeats purpose of R1. (Single Family)
- ADU's are an essential piece for the future of Tempe. Maybe not now or next year, but several years down the road. The importance of ADU's are to provide first one additional component of affordable housing to Tempe. Secondly, it provides our existing community the opportunity for long term investment in their homes. As new homes are built farther and farther out, there is less of a desire to remain in Tempe's older communities. The ADU section should remain in the code or some aspect of it.

Recommended change:

Remove the requirement "an ADU is permitted _ when a property contains a single-family home". It is more beneficial for an owner/applicant to build an additional unit that is not an ADU. Since the property only has one unit, you are already guaranteed at least one more unit, without having to go through an additional process with limited habitable space.

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As our community knowledge expands on the potential benefits of ADU's, we can then take the next step to introduce this residential option to other areas of the city. Until then, the city needs some sort of trial period code to test the community waters.

- Accessory Dwelling definition needs clarification.
- Accessory dwellings have to count towards density.
- If active areas are safer, and a mother-in-law is in the backyard, and the entry to the accessory dwelling unit (mother-in-law) creates activity, then why would police oppose more active alleys?
- As our town 'matures'
 - Options to stay put in stable neighborhoods as we mature.
 - Our mature age, income is generally more constricted.
 - Don't accessory dwelling units become a viable option to augment income in retirement?
- Clarify that lot coverage includes accessory buildings and ADU's.
- I believe that we should require these site additions to provide off street parking for the new addition. Otherwise we are allowing them overbuild a site and not provide parking for tenants.

3-402 E

Accessory Dwellings

- E. The accessory dwelling does not count towards density. Once the ADU is constructed the primary SFR can be torn down and a new multi-Family building constructed--using the allowable density for the property not counting the ADU previously constructed.

3-403 B. 2

Adult Uses

- Add graphic to page 3-18, location requirements. Place graphic after #2 to show how we exclude ROW based on meeting of 7/11/03. SV to have graphic.

3-404

Agricultural Uses

- A major concern that was provided was preserving the existing living in Tempe (such as horse property). Response: Code should not effect this.

3-405

Bed and Breakfast

- No mention is made of the possible parking of 5 vehicles for guests in 5 bedrooms as well as several service employees categories allowed.

3-408

Drive-Through Facilities

- Figure 3-408 Drive-Through Facilities Diagram. Complies example: Bad, this is not good design because it does not allow for enough stacking room for cars in the drive through and will cause back up in the parking lot. Does Not Comply example: Good.

Home Occupations

- I oppose any changes that would allow increased noise levels and that would continue to allow noisy home businesses to operate until 10:00 p.m. at night. We have lived in our current home for 32 years. Until about one year ago, we were blessed with excellent neighbors. When the surviving spouse passed away last year, the home was sold to an individual who runs a home cabinet shop. I could not believe that he is allowed to

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operate saws from 6:00 a.m. until 10:00 p.m. - and he often does. He was keeping two trailers parked in the front yard. When I called, an inspector came out. He told our neighbor that he needed to remove one of the trailers. I have been unable to convince the inspector that the second trailer also violates the code. It may be because through the years, our neighborhood has apparently put up with all types of trailers parked in front yards. The inspector has had to come a second time because the neighbor brought the second trailer back. I have been told that I need to prove the trailer exceeds the load capacity permitted by the code. These neighbors often parked their vehicles/trailers across the sidewalk, which creates safety hazards. Unless they are parked across the sidewalk when the inspector visits, apparently no violations occur.

While there are limits on how many unrelated persons can live in a home; the large number of rentals to college students has made this a non-issue in our neighborhood. When I mentioned to the inspector that it appeared the neighbor had workers coming to work in his garage who did not live there, and some seemed to spend the night - I was told that I basically would have to prove this. That information is beyond my control. When I complained about the noise level of the saws, I was told that I would have to prove that it exceeded the decibel level allowed. It has been a while; but some mornings I would get into my car and it would be full of fumes from the materials used in the shop next door. Again, I am supposed to prove this!

The City of Mesa has strict code limitations on home businesses! It's ironic that Tempe, a City that prides itself on "quality of life" issues would allow this nightmare to exist in a residential neighborhood. And, according to the AZ Republic article, the City is considering loosening "some restrictions on home businesses." I do not have a problem with home businesses that do not increase traffic in the neighborhood, or to home businesses that do not add to the noise in a residential neighborhood. I was incredulous when I found out that an individual can run a cabinet business from his home and can run saws from 6:00 a.m. - 10:00 p.m.

Rather than loosening restrictions on home businesses, the Council should consider imposing restrictions on home businesses which negatively affect the quality of life in a residential neighborhood.

Through this communication, I hereby request a copy of the proposed changes to the Code. Thank you for reading this!

3-409

Group Homes for Adult Care etc.

- I believe that we should limit Group Homes to a maximum of two (2) people per bedroom.

We should require them to provide off street parking for their staff and visitors.

Many of these facilities are very similar to Hospitals, Sanitariums, and Nursing Homes. As such they should be made to meet the same standards as those facilities. See Section 3-413 on page 3-26.

3-409 (D)

Group Homes

- Reword
D. Such home must be reviewed, approved and has a certificate of occupancy for the use from the Development Services Manager for building codes and land use compliance prior to use commencing.

3-411

Guest Quarters

- In R1-6 would like to have the ability to have Guest Quarters, not rental, one meter with main house.

Guest Quarters/Granny flats

- There are people living in Tempe who want to provide additional living spaces like guest quarters or

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granny flats on single residential property - despite what some residents living near ASU are saying. It's a great idea especially if I want to take care my parents now that they are getting older. Since guest quarters are already allowed in AG districts, why to expand this use to other large single family districts like R1-15 or R1-10 just to test the waters. The lots and setbacks are generous enough so that the placement of a guest quarter should not become a disturbance to adjacent neighbors. Once in, the city can evaluate if this use is a good addition in our community over the next few years and see if this could be expanded into other single family residential districts. Housing expansions like this is happening everywhere like California and Oregon. If it works there, why couldn't we see if it works here?

3-412

Home Occupation

- Need a list of permitted uses for Home Occupations. More simple to make additions.
- Home Occupations

Recommendation: List Permitted Uses not Prohibited Uses.

Listing prohibited uses can not be as inclusive as it should be. It would be easier to review, approve and add another acceptable permitted use rather than try to stop an ongoing, overlooked, unexpected and very unacceptable use.

I'm rambling, but I think you get the idea.

- Section 3-401 Accessory Buildings
Section 3-412 Home Occupation
Section 7-107 "F" Definition of Family

All the above sections must be considered together in order to visualize the ramifications of how one affects the other.

1. Employees; the "FAMILY MEMBERS" allowed to work in the home occupation business can be unlimited in number if related by blood, adoption, marriage or as domestic partners and 2 additional persons living together in the dwelling unit.
2. The equivalent of 1 full time employee at a given time; ie, rotating different people is OK which negates 3. and 4. as to on site assembly or pick up/deliver at the home.
3. Restrictions as to vehicles associated with the Home Occupation, commercial vehicle deliveries (shipping pickups not mentioned), customer parking-on or off site are totally unenforceable without budget amounts allowing 24 hour surveillance of the business.

Should we allow this activity only outside of the residence?

The Home Occupation may be carried on in the residence or in an unattached accessory building. There is no specification as to the percentage usages for living and percentage usages for work except for a judgment call as to what is "appropriate in scale and impact" to be operated within a residence. This is a very vague rule.

What is the constitutional requirements for a search in order to enforce the Code? Can we search the home and more importantly, WILL we search the home to enforce this section.

Code Enforcement presently has a precedent of not enforcing the Code as to commercial used goods merchants running Yard Sales in residential zoning areas. They often require dates, times, etc record of the violation in the complaint. Code Enforcement rulings are that any goods stored in the home qualifies as surplus home goods even if they are new in wrapper in large quantity.

- Regarding item #1 under part C. "Employees" on page 3-25, I oppose the proposal of allowing one (1) employee who is not a family member.

Regarding item #3 under part E. "Vehicles, Parking and Traffic" on page 3.16, I oppose the proposal of

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allowing any clients to visit a residence operating a home occupation.

If the above proposals are implemented, all of Tempe's residential neighborhoods would potentially become semi-commercialized. Preservation of our residential neighborhoods must take priority. Additionally, increased traffic would reduce the safety of our neighborhoods and an influx of non-residents might have the adverse effect of increased crime rates.

3-414

Live Work

- All the rules for Home Occupation apply except the following: Any housekeeping unit in MU, CC, R/O, PCC-1, PCC-2 AND all multi family districts may run a business with equivalent of 2 full time employees plus an unlimited number of family employed. Parking is UNREGULATED in all except multi family zoning. Again, rules are set up that cannot be enforced except with 24/7 surveillance.

3-415

Mini- Warehouse

- Many of these facilities become manufacturing sites. So, in addition prohibiting retailing we should also prohibit manufacturing at these facilities. This is actually a major concern for fire safety.

I believe that we should also have language that prohibits the storage of hazardous materials at these locations. This is also a fire safety issue that causes the fire department concern.

3-416

Mobile Homes - perimeter walls

- Perimeter Walls. I believe that the words "which shall remain unlocked and allow police and emergency access from the street" should be deleted from this paragraph. The current paragraph does not support basic crime prevention or the CPTED standards our police department expects. I also believe that an agenda or idea that prohibits people from securing their own property is unsupportable. The leased we should be doing is allowing private property owners to decide for themselves if and how they want to secure their property. Please delete this section of this paragraph.

3-418 B - 8.

Outdoor Retail Display

- The word music should be added to this requirement. Sales demonstrations should not be allowed to use amplified music in their promotions. We had a similar situation a few weeks ago. A DJ equipment store was allowing DJ's to demonstrate their equipment at the intersection of Mill and 5th Street. A crowd gathered that blocked the sidewalk and some of the street.

3-419 (B)

Residential Sales Office Temp

- Reword
B. Temporary Certificate of Occupancy. Prior to use of the premises as a temporary residential sales office, the sales office must meet all applicable building codes, and a temporary certificate of occupancy shall be obtained from the Development Services Manager.

3-420

Second Story

- Do not want 2nd story in a single family residence without public hearing.

3-421

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Towers

- Section 3-421 Wireless Communication Facilities
A. Towers are permitted anywhere in the City.

3-506

Damage to a Legal Non-Conforming Development

- Define "Development". One building of a 4 building development sustains 100% damage. Are the damages 25% of the total development and therefore reconstruction does not need to conform to the requirements of the district in which it is located?

To what requirements is the reconstruction of a development damaged <50% subject?

- Define "Development". One building of a 4 building complex sustains 100% damage. Are the damages 25% of the total development and therefore reconstruction does not need to conform to the requirements of the district in which it is located? To what requirements is the reconstruction of a development damaged <50% subject?

4-102 (D)

General Regulations

- Reword
D. Completion or Bonding Prior to Occupancy. Prior to issuance of a certificate of occupancy, all improvements required by this Code and applicable building codes shall be installed in accordance with the plans approved by the Development Services Department. Alternatively, the Development Services Department may accept a cash deposit, bond or a irrevocable letter of credit in an amount guaranteeing the complete installation of the improvements required by this Code within six (6) months. Failure to complete the installation within the prescribed time limit shall result in the forfeiture of the deposit, bond or letter of credit, and be deemed a violation of this Code.

4-200

Density

- Increase in density will negatively impact our quality of life in Tempe. No increase in density.

Modification of setbacks in several districts

- I oppose any changes to residential property setbacks. In my opinion, the routine granting of variances does not constitute the creation of a new standard. What it does indicate, however, is the lack of restraint and control on the part of the City of Tempe's Board of Adjustment. In my specific neighborhood, variances were granted despite opposition by neighbors. In one particular instance, a side lot setback was reduced from 15 ft. to 3 ft. I do not believe the need for a bigger garage/storage area was good enough reason for the Board of Adjustment to disregard the neighbors opposition.

As far as I am concerned, the Board of Adjustment's indifference to the open spaces between homes does not constitute any change to any standard.

setbacks

- Perception of loss or open space for single family development. Can lead to outside entity taking over. Separation between homes is valued. Old neighborhood at this time still provide that. Residential setback(s) may not effect home owners but it is a concern if it is for redevelopment.
- I am concerned about loosing the open space by changing the setbacks in residential areas. I'm hoping that sticking 'out buildings' on yards so close to lot lines will affect neighbors 'personal space'.
- No decrease in setbacks

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4-202

setbacks

- Comment: Don't reduce side setback limits in R-1, R-2, R-3 zones. Smaller setbacks = high density. Provides no advantage to average homeowner, substantial advantage to developers.

4-202A

Density allowed in R1-6

- The table limits density in R1-6 to 4du/ac. R1-6 allows 6000sf min lot size. That would equate to 7.26du/ac. The reduction in density will work against any redevelopment efforts. It is also unclear; if someone purchased two homes on 6000sf lots, and joined them would one of the residences need to be torn down because the density would be too high?

The limitation of density makes more sense in a virgin community where a city may be trying to encourage developers to include openspace within their neighborhood plans. In an already developed city, would redevelopment projects get to count already existing neighborhood parks into their density calculations (even if they are already dedicated to the city). In redeveloping areas it would be odd to suggest that 1/2 of all the existing density be removed, as areas usually redevelop to become more dense.

This density not fitting minimum lot size probably applies to other categories on the table as well.

4-203

CC District

- Comments the DTC will have on the new zoning code:

1. The South boundary of the CC zone be University. 2. In the CC zone we are not sure what the building height should be but we think it should not be taller than 45-50 feet in the core historic area, i.e.: Mill Avenue from the Casa Loma Building to 6th Street. 3. 65 feet right on the property line is too high for any pedestrian street, we think a setback should be required with a 45-50 foot max on the ROW line in the CC. The setback could be less than what is proposed in the other zones, and the height of the back building could be higher than 65 feet. 4. The first 30' of parking garage height should be faced with non-parking look. All parking garages facing pedestrian streets, i.e.: Mill, University, College, 7th, etc; should be faced with non parking uses. 5. Incorporate by reference the Downtown Tempe Design Vision for the CC zone. Not much, but I think the height and setback thing are important. The zoning "box" that would allow a 65' building right on the street without variance is too high without a setback.

MU-4

- Protest: MU-4 designation and eliminate because 0 setbacks are unacceptable.
- MU-4: 0 setbacks O.K.

4-203A

Building Height

- Building Height Maximum, CC district 65 feet. What determined this height?

Height Requirements

- CC zoning should stay at 35 feet height.

4-203B

Building Height Step-Back

- Building Height Step-Back Required Adjacent to R1 District, Yes in MU-4. This is a problem for Hayden

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Ferry Lakeside and ASU Rio Salado as long as the linear park is R1 zoning. Something needs to change!

4-204

Building Height

- Building Height Maximum: OBD 30ft, LID 35ft, HID 40ft. Seems low - a 2 story mezzanine type building will need 40 feet? For HID maximum height, to get 30 feet clear height and clear mech. unit, you will need 48 feet.

4-303. C

Transportation Improvements

- We must insure that the City of Tempe Pedestrian and Bicycle Facility Design Guidelines meet CPTED standards. I did review these documents about a year ago. As that time only minor adjustments were required to comply. I have not seen a second draft.

4-304 D

Storm Drainage

- The entire retention pond system needs to be evaluated and re-written.

4-401. A. 5.

Purpose and Application

- Addressing is not adequately addressed in this document. I suggest that an appendix concerning addressing be added to this document. See related paragraph in the opening section of this document.

4-404

Building Height Step-Back

- Building Height Step-Back: What is the maximum that this continues for?
- I have a real problem with the Building step-back height on page 4-16. fig. 4-404. I am talking now as chairman of our Hudson Manor Neighborhood Association but I am sure other neighborhoods along Apache will have to deal with this situation too. Here is why: The houses that back up to Apache Blvd. have a typical 6' fence or less. The alley is say 12'. The setback for commercial is only 10' . So there will be only 25' max. separating the commercial building from the residence property. If you allow a building to go up to the setback and go up 30' before it steps back you will clearly be able to see into the back yard and bedrooms of those houses. My possible suggestions on fixing this problem:

1. Any windows facing onto residential property above 10' have to be block or frosted so there is not a clear view into houses.

2. Big trees need to be planted along back property line. Not the current suggested size since those would take at least 7 years to grow big enough to block the view.

3. Go back to the old way of starting the step-back for every 10 feet of height instead of 30 feet and plant trees along the property line facing residential property.

If you are serious about protecting neighborhoods. We need to look at this. The current solution is not good. You show a big tree in your drawing but that is not the case on a lot of properties.

4-405 (A)

Mechanical Equipment

- If the mechanical equipment is not visible from the ground and the building elements are not higher then

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the equipment, would the equipment still need to screening?

Add to A. "screening must be constructed to meet applicable building codes"

4-406

Employee Service Entrance and Exits

- The word or should be added between ("registered trademark") or laminated glass. Lexan and laminated glass are not one in the same.

4-600

Parking

- Concern: Parking not being provided for home occupation, live-work, bed and breakfast.

Parking Requirements

- Section 3-407 Child Care, 3-409 Group Homes etc., 3-410 Guest Room, 3-411 Guest Quarters.

No mention is made of parking vehicles belonging to guests, clients, patients, residents, employees, vendors, deliveries, or owners. These facilities will locate in residential areas with only street parking.

4-602 B. 8

Recreational Vehicles

- I am particularly concerned with these two zoning laws:
"Recreational vehicles that exceed 21 feet in length and all boats or trailers shall not be parked in the required front yard or required street side yard except as provided in 4-602C.1 below; or for 48 hours for the purpose of loading, unloading and cleaning."

"Recreational vehicles that exceed 21 feet in length and any boats or trailers may be parked in the required front yard or required street side yard subject to a use permit..."

We have had a neighbor who has been moving his RV before the 48 hours is up, by driving it around the block! We have been informed that because these particular zoning ordinances do not stipulate how many 48 hours are given per year or how what constitutes another 48 hours cycle! So what we have is a perpetual ~36' RV parked on our block. The RV is an eyesore, brings down the property value of our neighborhood and most importantly: impedes the safe view of traffic, pedestrians and children coming in from the west or east sides of Sunburst Lane. I would suggest that the RV owner be required to get a permit for the 48 hour period and only be allowed one permit every three months. I would like to be involved in revising this ambiguous ordinance and rewording it to make it fair to all parties involved. Thank you

4-603

bike parking

-

4-603 B

Parking

- Maximum Parking Spaces. "Except for the RCC zoning district," Good.

4-603 E

Parking Requirements

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- Delete reference to BOARDING HOUSES on page 4-32. Section 4-603E.

4-603C

Parking Ratios

- How does "Maximum Parking Spaces" impact existing buildings/developments? The new parking ratios reduce required parking for retail uses by 20%. If they have any surplus parking today, they could very easily exceed the maximum 125% of required.

Parking structures are excepted from the "Maximum Parking" provisions. If all the required parking is provided in an underground parking structure, can 125% still provide on grade?

Are parking canopies considered "parking within the building footprint of a structure"?

Terry Day's June 19, 1991 memo regarding required parking for single family residences permitted before October 2, 1976, should be included in the ordinance.

4-603E

bike parking

- what does "--" mean? If this means no standard, then we have several areas within the Bicycle Commute Area with no requirements for bike parking!

4-606

Parking Area Dimensions

- 5. Delete. ADA stands on it own merits. Not all uses in the Zoning Ordinance are subject to ADA. Referencing ADA in the Zoning Ordinance can only create confusion.

4-700

Landscape

- New code does not require greater amount of landscaping.
- In view of our present and future water resources, I feel it is imperative to restrict types of foliage to xeriscape landscaping as Tucson does. Currently, how many Aleppo Pines are dead in Tempe?

4-706. D.

Land Use Buffer

- A parking lot pole light should be shown in this diagram. This should be shown to clearly identify how we want the relationship between trees and light poles in parking lots to be designed. It should also show the twenty (20') feet clear space between the tree location and the light source.

4-706. I.

Screens, Walls, and Access Control Landscaping

- See comments under Page 3-27 above concerning perimeter walls and gates around mobile home subdivisions.

4-800

Lighting

- There is currently quite a bit of research being done with regard to spectral qualities of various lighting systems and sources. I have been advised on some projects to specifically use a particular light source, but I

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see nothing in the proposed code that supports such decisions. Is there a policy within the City of Tempe that designates when a Metal Halide or High Pressure Sodium system is to be used? The proposed code does not allow for future technological advances or practices. Nowhere is there a statement that lighting levels are to meet current recommended practices or standards of the Illuminating Engineering Society of North America (IESNA). In addition to the cut sheets for the luminaire and lamp, I believe you should also request a copy of the photometric file for the luminaires being used. This could be presented in a PDF format from several different photometric viewer programs such as Photometric Toolbox 32. This would ensure that proper photometric files are being used for the specific manufacturer(s) being used. The submittal should also include, in text, PDF, or a schedule format, a listing of the various objects, obstructions, and buildings used in the calculation. Such obstructions or objects listed would be the parking canopies located on a site. It's a lot easier to achieve 3 fc under a canopy, if the canopy obstruction is not drawn in and used in the calculation. All calculation points should be a minimum of two (2) decimal places. This can affect the maximum to minimum, and average to minimum ratios and the minimum calculated point of illuminance. Recommended levels of illumination are changing. See the 2005 Draft of the California Energy Commission Title 24 document. The International Dark-Sky Association (IDA) has been working on a Model Lighting Ordinance (MLO) for the past year and a half. I was a member of the working group of the MLO. This document will most likely be released at the IDA Annual Meeting in March 2004 in Tucson.

There are a number of IESNA documents you may want to investigate including, HB-9-00 - IESNA Handbook - 9th Edition, G-01-03 - Guideline for Security Lighting for People, Property, and Public Spaces, RP-2-01 - Lighting Merchandising Areas, RP-8-00 - Roadway Lighting, RP-20-98 - Lighting for Parking Facilities, RP-28-98 - Lighting and the Visual Environment for Senior Living, RP-33-99 - Lighting for Exterior Environments, DG-5-94 - Recommended Lighting for Walkways and Class I Bikeways, and LM-64-01 - Photometric Measurements of Parking Areas I thank you for your time and consideration and the opportunity to comment on this draft.

4-801. A.

Purpose and Applicability

- One of the primary reasons for good lighting is to assist people with visual impediments. This fact should be added to the purpose section of this chapter. I recommend that it be worded as follows..."It is intended to ensure appropriate lighting levels that assist people with visual impediments, support wayfinding and crime prevention,..."

4-802

Photometry Plan

- 1) Section 4-802 Photometry Plan
 - a) 3. The light loss factors (LLF) to be used were selected to standardize on something and try to keep things equal, but do not reflect the actual LLF. Attached is a copy of a HID lamp listing I've compiled. If copies of cut sheets are required for luminaires and lamps, the use of the actual lamp lumen depreciation of the lamp being used should be allowed. This allows for use of technological advances in lamps and luminaires; such as Pulse Start Metal Halide (PSMH) lamps. The PSMH lamps are more efficient than High Output MH and standard MH lamps.
 - b) 3. The correct name for I.E.S. is the Illuminating Engineering Society of North America, commonly referred to as IES or IESNA.
 - c) 5 & 6. The letter of certification was dismissed in early 2001 as cost prohibitive. You can confirm this with Roger Austin.

4-803

Lighting

- 2) Section 4-803 Lighting Standards
 - a) B. See above 1a for comment on LLF.
 - b) 5f. The foot-candle (fc) level at the property line adjacent to a single-family district shall not exceed one-

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half (0.50) fc. Is this horizontal or vertical foot-candles, and at what height above grade or at grade? I have seen various methods of calculating this "trespass or spill" light level. I believe the correct way to calculate this metric is to place a line of calculation points along the four borders of the property at the North, South, East, & West sides at 6 feet above grade with the meter oriented towards the lighted property. These points should be 10 feet on center. The reason I select a 6 ft height is to clear the height of a normal block fence around a residential property. What you are really looking for is how much light is passing over the block fence into the residential property. I have seen these points erroneously calculated as a television (TV) metric with the meter oriented at a single point in the center of the lighted property. This type of calculation may not pick up an offending luminaire.

4-803. D.

Lighting Standards. / Specific Areas to be Illuminated

- This section does not address areas where the risk of crime is significantly higher than in the rest of the community. Typically these are locations where Security Plans are required. I recommend that an item # 12 be added to the current list of requirements. This new item should clearly indicate that additional lighting would be required where current ordinance requires a Security Plan.

4-803.B

illumination level

- the "one hundredths" should be replaced with percent...The maximum illumination level for on-site lighting is forty (40) foot-candles as measured at grade, based on light loss factor of sixty-eight percent (0.68)...seventy-two percent...

4-803.D.10

lighting

- Include pedestrian and vehicular gates with this lighting requirement...or add a new section which specifically lists: Pedestrian and vehicular gates shall be illuminated with five (5) foot-candles at the gate and two (2) foot-candles within a fifteen (15) foot radius from the center point of the gate.

4-803.D.9

lighting

- Need to add a reference to lighting for bicycle parking areas.
(new .b) Bicycle parking areas shall be illuminated with two (2) foot-candles; (re-letter b and c.)

4-805 (general)

lighting

- All references to lighting levels should be measured at grade.
ie. like 4-803.B...at finish grade.
not like 4-803.D...at finish grade to six (6) feet above finish grade.

4-900

Signs

- The Tempe sign ordinance is one of the most thorough in the Valley. It creates a visually pleasing setting and adds to the quality of life we enjoy in Tempe. However, the Tempe sign ordinance is the issue about which the Chamber receives the most complaints. The Tempe Chamber suggests seven changes to the sign ordinance to make business compliance simpler:
 - Allowed multi-tenant signage,
 - Adjusted costs for permits,
 - Special event and new business signage,
 - Recognizable brand signage,

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- Logo restrictions abrogation,
- Streamlined administrative processes,
- Zoning-based sign standards.

- Continue to limit signage more aggressively. Not liberalize it. We don't want Las Vegas.

4-902 B. 5

Signs

- Section 4-902(B)(5) (freestanding changeable copy signs). It is legally problematic to prohibit changeable copy signs generally, and then to permit them for some uses. In the recent case of *Thomas v. Chicago Park Dist.*, the Supreme Court stated that granting waivers [of a general prohibition] to favored speakers (or, more precisely, denying them to disfavored speakers) would, of course, be unconstitutional. Changeable message signs have come into mainstream usage. Walgreen's uses them regularly on their freestanding signs. Hotels use them to provide price information. Some shopping centers have begun to use them as a way to give tenants street presence, on a rotating basis, rather than providing multiple freestanding signs (or the alternative of leaving the tenant's identification out completely). Gilbert and Phoenix permit them generally, and Mesa is currently considering code changes to allow electronic changeable copy signs. Schools use them routinely, even in Tempe. I know of no public outcry. The opposition has historically been to flashing and animated messages, which have the potential to be distracting. These signs can now be operated with static messages and subtle transitions that do not have the undesirable effects, and there is model code language that can be implemented to achieve this regulation without the favoritism the Supreme Court found unconstitutional in Chicago Park.

4-902 E

Signs

- Section 4-902(E) (Ceased signs). This section, along with the definition for a "ceased sign", has significant legal and practical problems. It blends the concepts of obsolete sign copy (signs identifying a use that is no longer there) with abandoned sign structures (a sign structure that is no longer in use and which is not intended to be used again). The traditional sign code method of dealing with obsolete sign copy is to require that the obsolete copy to be removed or covered, so it does not mislead the public into believing that use still exists at that location. The proposed language could be interpreted to require the entire removal of a sign structure that is without sign copy, such as during an economic downturn when the tenant space is vacant, whether the sign structure conforms to the code or not. The compelled removal of a legal property improvement has serious legal implications, as well as considerations of fairness to the property owner who is diligently trying to get a new tenant. As this may effect grandfathered (nonconforming) improvements, the effect of this section may be to violate state law. The Arizona Supreme Court, in the case of *Glendale v. Aldabbagh*, held that a city cannot force the removal of a nonconforming use merely on the basis of the passage of a period of non-use. That is precisely what the language of this section seems to be suggesting Tempe will do. There is a way to deal with abandonment, using non-use to establish a presumption of abandonment, that I believe could pass legal muster. This isn't it, and could subject the City to liability.

4-902 F

Signs

- Section 4-902(F) (sign height measurement). The measurement specified in Paragraph 1, for freestanding signs, could virtually prohibit the use of a freestanding sign for properties where there is a change in grade near the roadway, such as properties near A-mountain or properties in the SRP development area, as we discussed in January. Height should be measured on the base of grade, where the grade is higher than the roadway, with the curb height used as a backup measurement where the grade cannot otherwise be determined.

4-902 G

Signs

Section	Comment
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- Section 4-902(G) (Sign area measurement). Virtually all sign codes calculate the allowances for wall signs, freestanding signs, directional signs, etc. separately. The 1:1 sign area ratio for wall signs per elevation, with the City's current restrictions on freestanding sign size, is a pretty restrictive code, more restrictive than Tempe's surrounding communities (Phoenix, Gilbert, Chandler, Mesa).

4-903

Sign Ordinance

- We are a sign shop and these are comments made by our business customers who have businesses in Tempe:
 - 1) Would like to see 50% window lettering. The compliance presently is not consistent at 25%. The 50% would still meet the CPTED criteria. Would like to see vinyl lettering only - not painted signs. The vinyl appears more professional.
 - 2) My customers are requesting the opportunity to use a portable sign during the daytime hours. It appears the new code only allows portable signs in the downtown district. Why would it be allowed in the city but not elsewhere?
 - 3) I believe offering the opportunity of hanging a banner 4 times a year instead of only one allows the business to advertise on a seasonal basis. And would like to see it approved for two weeks. If I was to hope for only one sign change it would be this one. I feel it allows the business to advertise to stimulate business which brings in sales tax revenue of course. It also would require a permit which would also bring in additional revenue for the city.

These are the three biggest complaints we hear from our customers - window lettering too restrictive, no A-frames allowed, and no banners allowed. Signs advertise identity, sales, services, promotions etc. A promotional sign advertising a sale for instance stimulates sales - what a great way to increase the city's bottom line revenue through increased sales tax. When we as a business sell, the community and the city government wins.

Special Event

- Permitted Signs

S. Significant Event Sign - limited to 1 event per year.

Recommendation: Do we really want to limit Significant (tax generating) Events?
2nd & 3rd Significant Event, with Use Permit approval.

4-903 I. 2

Signs

- Section 4-903(I)(2) (Freestanding i.d. signs). I appreciate the clarification of intent in Fred's cover letter, to the effect that a property is eligible for a second freestanding sign when it has over 600 feet of frontage, I was reading the proposed code language to require 900 feet to obtain the second sign, and it still can be read that way. For purposes of clarity and simplification, the first sentence should be modified to state "one (1) freestanding sign per three hundred (300) feet of street frontage." Subparagraph a, where the ambiguity is created, can then be deleted.

4-903 J. 1. c

Signs

- Section 4-903(J)(1)(c) (freeway sign height and area). It is good that there is a recognition that freeway visibility is a business asset to the community, and that freeway signs are part of the freeway commercial environment. I question whether 35 feet in height and 120 square feet in area gives sufficient visibility from a practical standpoint, or keeps Tempe competitive with its neighboring communities. Freeway signs permitted in other surrounding communities, with whom we compete, are permitted as follows:

Phoenix: 35 feet height and 200 square feet

Section	Comment
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48 feet with design review
72 feet with comp sign plan 250 s.f. with C.S.P.

Chandler: 70 feet high approved 200+ s.f. approved

Gilbert: 60 feet height, 500+ square feet

Mesa: No set height limit (proposed), No set area limit

4-903 N

Signs

- Section 4-903(N)(menu board signs). We discussed at our meeting that there needed to be some appropriate allowance for the type of menu signs that are used by a drive-in restaurant like Sonic. The needs of a drive-in restaurant are different than the needs of a drive-through. The proposal allows only two such signs - far too few for each drive-in station at a Sonic to be covered. I think a third sub-category of menu board signs needs to be added.

4-903 S

Signs

- Allow 10 days for significant event. City Council direction, be sure to include it in new code.

4-903. A.

Address Signage

- This section is not adequate. I recommend that this section refer to an Appendix that better identifies how addressing must be designed.

For example, this section says, "addresses shall be at least four (4) inches in height". This is true but most of our buildings require an address number that is 12" tall.

Example, this section says that addresses "shall be visible from public access to the property." This is also true but we require address numbers on all four elevations of most buildings and if the building is a large building there could be address numbers in the middle of an elevation.

Example, this section does not say that address numbers must be illuminated with a dedicated light source from dusk to dawn. However, our standard dictates that address numbers be lighted during the nighttime hours.

Example, this section does not indicate that the police department may require a roof top address number on strategically located buildings in the city. This is an important public safety issue today and will become an even greater concern as the Phoenix and Tempe area grow. We are part of the fifth largest city in the United States. To believe that police and emergency response pilots will not need a wayfinding system in the future is short sighted.

4-903. G.

Directory Signs

- Directory signs are required to be illuminated with a minimum of five (5) foot-candles of light within a fifteen (15') foot radius from dusk to dawn. They are also required to have a street address number on them and a red locator arrow so that people can easily identify where they are on the map.

4-903.I.1 and 2

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freestanding signs

- revise to say:
 1. Single use buildings with more than 300 linear feet of street frontage, on their own lot, are allowed one (1) freestanding sign per street frontage;
 2. Multi-tenant buildings, or multiple buildings on a single lot, with more than 300 linear feet of street frontage are allowed one (1) freestanding sign per street frontage;
 - a...
(perhaps the 300 foot dimension for article 1, single use, could be debated to allow a smaller lot to have a sign...this is fairly restrictive, but it also reinforces the idea of placing the building near the street for visibility.

Center needs to be identified only in reference to criteria packages, which I'm not finding!.

4-904 (B)

Sign Permits, Fees and Procedures

- Follow up to suggestion of adding expiration time limits to Plan review/Permit.

Expiration of Plan Review. Applications for which no permit is issued within 120 days following the date of application shall expire by limitation, and the plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Development Services Manager or their designee. The Development Services Manager or their designee may extend, upon either verbal or written request by the applicant, the time for action by the applicant for a period not to exceed 120 days, but not beyond six (6) months from the original date of application. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review/permit fee.

Permit Expiration. Every sign permit issued under the provision of the zoning ordinance shall be valid for a period of six (6) months from the date of issuance. However, a permit shall expire if work authorized by such permit is not commenced and an approved inspection is not obtained within 120 days from the date of issuance or if the time between approved inspections exceed 120 days. Before work can commence, continue or resume on a sign for which a permit has expired, a new permit shall be obtained and the fee paid.

Exception: 1. Where no work has commenced within 120 days from the date of issuance, the permit may be reinstated, without fee, upon either verbal or written request by the owner or his agent, provided work commences and an approved inspection is obtained within six (6) months of the original date of issuance. No permit shall be extended more than once.

2. A permit shall not expire if the time between approved inspections does not exceed 120 days.

3. If an approved inspection is not obtained within 120 days of the last approved inspection, the permit may be reinstated once, without fee, upon either verbal or written request of the owner or his agent provided no substantial changes have been made from the original plans and an approved inspection is obtained within six (6) months of the last approved inspection.

Sign Permits, Fees, and Procedures

- Add: Plan Check and Permit Expiration Time and Renewal, Extension or Reinstatement procedures.
I would suggest following what is used in the building code.

5-103A

Rio Salado Overlay

- Figure 5-103A. Flood Control: We need to discuss with Chris.

Section	Comment
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6-000

Fee Refunds

- There should be a section which addresses the refunding of fees. At what point are fees no longer refundable, who is authorized to refund fees, and how are additional fees collected after the application is accepted and other fee items (variances) are discovered? Can or should processing continue when fees are outstanding? Since the Pre-application Site Plan Review is now required for certain projects, can the fee be waived as in the past?

6-101

Decision Making body

- Hierarchy of planning decision making starts with the neighborhood residents. Then boards/commissions, then Town Council - Staff is advisory to boards/commissions/Town Council.

Neighborhood Meetings

- Table 6-101A indicates that Neighborhood Meetings are:

Required for:

Use Permit

Variance

Zoning Map Amendment

PAD

Modification of PAD or approved plan

General Plan Amendment

Not Required for:

Development Plan

"Major" over 5000sq ft

"Minor" under 5000 sq ft

Line Adjustment

Lot Split

Refer to Section 6-402

Neighborhood Meeting

B. Applicability

3. Development Plans, when a public hearing is required;

Refer to Section 6-307

Development Plan Review

C. Procedure

Major development plan reviews are processed as public meetings through the Design Review Board (DRB) or Redevelopment Review Commission (RRC) when located in the RRC boundary area.

Comments: Public hearing triggers Neighborhood Meeting. Correct?

Therefore, in Table 6-101A, Neighborhood Meeting should be indicated for Major Development Plans, over 5000ft.

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Additional Neighborhood Meeting Comments:

First, I am concerned that the designation between Minor and Major Development Plan has been changed from 1000 sq ft in the current Code, to 5000 sq ft in the Code rewrite.

Fred, in your memo dated July 8, 2003, subject: Executive Summary for Code Rewrite, on the second page, third paragraph, you stated:

"Expand the Design Review staff's authority to approve expansions and modifications to existing buildings. Currently they can approve up to 1,000 square feet expansions. We are proposing that they can approve up to 5,000 square feet expansions. The Design Review Board supports this concept."

Question- 1. ONLY EXPANSIONS AND MODIFICATIONS?
What about new development? Please clarify this.

Refer to Section 6-307

Development Plan Review

B. Applicability

1. Major Development Plan Review, Applies to all new development and expansions over five thousand (5,000) square feet gross floor area, except single family homes not included in a PAD and two (2) and three (3) family dwellings.

Question 2. Please also clarify what this means regarding single-family homes. I am confused with the wording. Does that mean that any single-family residence would be classified as a Minor Development Plan with no meeting?

Question - 3. Aren't there 2,000 to 5,00 sq ft Development Plans that warrant a Neighborhood Meeting?

Next, I am also very concerned with lot assemblage re-plats. These should definitely require public hearings and Neighborhood Meetings. We need to have a voice in re-development in our neighborhoods. Please preserve our property rights and our rights as citizens to help determine our quality of life. Please do not forget that with input from the neighborhood, great things can and do happen.

I do not want to leave this section on Neighborhood Meetings, without recognizing this great tool that you have added to the Tempe Zoning and Development Code. As a citizen of Tempe, a neighbor, and neighborhood representative I want to thank you very much for your leadership in making Neighborhood Meetings an integral part of the planning and review process. This will go a long way to open communications, avoid problems and to come to consensus on important development issues. An informed community becomes an involved community and this will go a long way to bolster community pride and to assure great development projects. With input from the neighborhoods the City will also have the necessary input to make informed decisions. Thank you.

Use Permits

- Use Permits should be either Board of Adjustment matters or Planning Commission/RRC matters, but not both.

6-206

Public Hearings

- Completely define what items require public hearing.
- Hearing Officer meetings should be in evenings, not during working hours.

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- Require hearings on high-impact, controversial projects to be held after working hours. Most people simply can't attend 1:30 pm weekday meetings.

6-206 F.

Post Notice

- Permits must be posted in a conspicuous location! Make permits bold colors. Permits must be monitored as not to be removed until project is complete!

6-300

Lot ties

- Concern for effect of lot ties on adjacent property. Response: Right now document does not address this. In certain districts/neighborhoods there should be a meeting/public hearing to discuss lot ties.

6-302

Preliminary Review Process

- Shouldn't the "Preliminary Review Process" have a formal expiration date.

6-304

Specific Area Plan

- Specific Area Plan recommendations: Eliminate 150 foot area protested. Have initiation and protest percentage the same.
- SAP (Specific Area Plan)/Strategic Plans route to balance between flexibility and certainty.
- Action proposed: Remove the SAP section in the Re-Write as too much in it needs to be simplified or eliminated. (ex: 33% of property owners need to initiate) This is an impossible standard for Neighborhoods to meet. Once SAP section finalized then put into amendment background. The idea of the SAP is great. But, some of the specifics in the Re-Write are restrictive and place an undue burden on neighborhoods.
- This entire section needs to be removed from the Zoning Standards Rewrite. The controversy created by this blatant attempt at disenfranchisement of the voters and landowners under B 3 will create so much controversy that the whole rewrite could be in jeopardy. The inclusion of all property owners within 150 of the SAP boundary in the 20% that can protest (kill) the proposed SAP is an unconscionable attempt to thwart the democratic process by the trickery of words. The rule adds 31% to the acreage for the protest group and an undetermined number of possible signatures, perhaps hundreds.

The lopsided allowance of only 20% protesting is in itself contrary to our democratic process and therefore needs to be raised to a number higher than the above 33%. In all the voting rules in the USA the Majority outvotes the Minority and so it should here. What hidden bomb is the writer afraid the public will want to change someday?

- Remove SAP (Specific Area Plan) section from rewrite. Do amendment later.
- Zoning ordinance alludes to SAP process. Loosen up roadblocks to developing an SAP - as long as process O.K. with or without city staff.
- Section 6-304 SAP: Don't believe we should add these to our processes but if we do the voting requirement should be at least a clear majority of property owners.

6-306

PAD

- PADs - Neighborhood does/doesn't have as much input. The developers has an easier way, as the PAD sets its own standards. PAD produces a unified area, a threat to unified historic areas.

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6-307 D. 1. i

Development Plan Review

- Approval Criteria: "on-site utilities are placed underground;" Explain - APS will not allow.

6-307 D. 1. q

Signs

- Section 6-307(D)(1)(q) (Design Review criteria for signs). The criteria for sign approval must be definite and not invite arbitrary decision making, in order to avoid being an unconstitutional prior restraint under the First Amendment. In a recent federal court case, an entire sign code was ruled unconstitutional in part because of open-ended language such as this. I would be happy to work with the staff on more appropriate criteria that do not leave the door open for unfettered discretion.

6-307 E

Time Limitations

- Time Limitations. Extensions granted by City Council for economic hardships.

6-308

Lot ties

- "Lot Ties" should need a public hearing, or else setback limits are meaningless. "Lot Assemblage", "Re-platting" same.
- Lot ties - should go to public hearing. Public input, best way to achieve balance between certainty and flexibility.

Replat

- Replot or Lot assembly need neighborhood input. Assemblage: may allow more intense development. Change the character of the neighborhood.
- Do not allow lot amalgamation in historic designated areas
- Public Hearings for lot replats (combined lots)

6-309 L

Special Sporting Events

- The program was created for the benefit of the Super Bowl and the Fiesta Bowl. After the creation of the permit, the City introduced or improved ordinances for sidewalk vending and special events which often confuse the issue of the TSPP. I think your analysis of the issue is accurate and the benefit to simplifying the process through the events task force makes the most sense for both staff and the applicant.
- We have discussed the current Temporary Sports Permits process within the Police Department and recommend that the process as we currently handle it be abolished.

The Sports Permits application process can be lengthy and time consuming to staff. Due to last minute requests and approvals it is difficult to oversee the applicant and can be difficult to regulate or enforce properly.

During past major sporting events, it has been virtually impossible to conduct any form of checks and balances due to the following:

where exactly the permitted activity was allowed (sidewalk, driveway, and other right-of-ways were affected)

what specific sales items were to be allowed

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who was to regulate the various types of sales as many internal city departments were affected. due to the "last minute application" it was impossible to determine/verify the legitimacy of the vendor, address, products, etc.

One item of discussion has been to move the application process of any person/ business desiring to sell sports related paraphernalia to the Special Event's Task Force. The Task Force has many staff members who represent the internal city departments affected by the operation. These departments include but are not limited to Police, Sales Tax, Building Safety, Fire, Transportation, Planning, etc.

The Special Event's Task Force has mechanisms in place to regulate the entire application process. Some of the requirements for an event include:

A timely application must be submitted no later than 15 days in advance of an event
Fees are paid during the application process BEFORE a permit is issued
Property owners approval for the activity must be presented in verifiable format
Ingress and Egress issues are addressed
Detail site plans are required
Site inspections can be conducted as needed

A presentation by the applicant is normally requested at the task force meetings, and a review is done by staff at the same time, giving all involved the opportunity to discuss the impact of the activity requested.

Another part of this recommended change would afford the opportunity to check into the history of the applicant which is often not accomplished under the present system.

Last, but maybe the most significant, the downtown merchants who do business in the area year-round would most likely benefit from their property being used, leased, or rented for the display and sales of sports items, especially if sales in the right-of-way are not allowed as does sometimes currently occur. This "suggested new" process may discourage outside vendors from coming into Tempe and selling items for a few days that ultimately take away from the Tempe merchants who support the city all year.

- The Tax and License Division is in support of eliminating the Temporary Sports Paraphernalia Permit (TSPP) section from the Zoning Ordinance and transferring the control of this type of activity to the Special Events Task Force for the following reasons:

Currently, vendors come into the Tax Division as late as the day of the event to apply for a TSPP permit. This does not give staff an adequate amount of time to properly process applications (applications are routed to Engineering, Planning and Police Department). The Special Events Task Force has well defined procedures that would require vendors to apply for a permit no later than 15 days prior to a special event. This process would insure that all departments that must be involved in the approval process would have input regarding the permits required as well as be informed of any enforcement concerns.

We would also support requiring vendors to prepay an estimated sales tax at the time of applying for a special event permit. The estimated sales tax would be equal to 1.8% of their inventory or \$500 which ever is greater.

Vendors would also have the option of working out agreement with existing merchants in the downtown area to sell their products in the downtown merchants store (assuming that the current tenant is properly zoned to retail sports products).

- As was discussed at the meeting, from a legal perspective, the TSPP can be eliminated, with adequate other permitting and licensing processes in place to fill the void.

6-310

Variiances

- I am very concerned that Tempe continue to require that state statutory requirements (no self-induced

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hardship etc.) be enforced before allowing any variances to the new Code.

- Variances should be handled only by the Board of Adjustment. (This can include preliminary hearing at Hearing Officer; appeal to Board of Adjustment; subsequent appeal to Superior Court.)

6-313 C. 2

Modify Approved Plan

- C. Procedure 2. "The hearing body shall be the same as the hearing body that made the original decision of approval." What happens at Hayden Ferry Lakeside, we had five different Boards, now we have just one, the RRC. Who makes the decision?

6-324

Security Plans

- This section is very vague. It'll either be ignored due to the lack of information provided or it'll lead to many questions. I recommend that this section refer people to the Crime Prevention / Security Plan Appendix that was mentioned at the beginning of this document. The appendix could then allow people to receive the complete information.

6-402

Neighborhood Meetings

- E. Notification Requirements
 1. 5th line. This line specifically exempts the City and the applicant from responsibility for maintaining the posted notice on the property. The reason given in the CAC meeting was that the kids will tear down making it difficult to maintain the posting. I have been involved with such notices for some years. The notice for rather benign actions seem to stay in place; notices for controversial applications seem to disappear, and the "For Sale" signs stay up.
- Section 6-402 Neighborhood Meetings: These meetings should stay as a policy/suggestion to applicants not be a code requirement.
- Comment: The 300 foot requirement for neighborhood input is currently "one size fits all". Same for a shopping center as for a porch! This is contrary to intent of revision. I suggest requiring a much larger radius for large, high impact developments.
- Suggest a standard format be added to the notification requirement. That is - notification must include items such as description of proposal in "everyman" language and reminder that person must respond by X date, an exactly how comments will be gathered. Also - a standard for recording neighborhood comments should be developed. Especially if there is a meeting (i.e. tape recording, attendance, meeting minutes)
- What constitutes a neighborhood meeting? Must be clarified. Is 3 people in my living room, with 1 weeks notice enough?

6-404

Public Hearings

- Increase notification of hearing for a variance from 300 feet to 500 feet and dis-include neighborhood associations.
- Currently, posted signs advertising variances/adjustment hearings are very vague. Require signs and adverts to specify what is being requested, in detail. No more "Smith house remodel hearing."

Public Meetings

- Same argument as 6-402
 - +The possibility of abuse as to maintenance of the posted notice and the possibility, no matter how remote as we see things here in 2003, of abuse by the hearing officer gives thought to the special needs of some owners who cannot afford counsel and cannot verbalize their own appeal due to age or lack of capacity.

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This would then bring on the need for pro bono work or the City itself furnishing counsel.

6-603E

bike parking

- reference to general office, indoor retail: 4, or 1 per 8000 sf...
this should be phrased something like, "1 per 8000 sf, minimum of 4 bikes."

6-800

Hearing Officer

- Hearing Officer meetings: No new appeal after "yes" or "no" from Hearing Officer.
- 7 day window for appeal should stand (current language)

Protest

- Proposed variance approval process does not retain or make clear the mechanism and option for "protest".

6-900

Time Extension

- Specify type of permits/approvals this covers.

7-107

Definition of Family

- (Determine allowed) people per square foot, not by family definition
- Need new methodology/ way to enforce/ define family "3 unrelated persons" in home.
- If I have a rental home with 3 'unrelated' persons living in the house - How is it enforced by the city? If I live in a house and the house to my left is a rental, and the house behind me is a rental? Would it appear as an apartment complex if my house and the house on my right were rentals too? What is the rationale for allowing rental in "R" zones?

Definitions

- F Definition. The addition of "2 additional persons living together in a dwelling unit" does not seem to relate to a traditional family definition.
Coupled with the allowed "family" employees in live work and home occupations can lead to real nuisance business uses of our family housing.
In every presentation you and Roger speak in terms relating to professionals using their home for business. There is nothing in the book to prevent blue collar businesses from such locations.

7-120

Signs

- Definitions ("political sign"). The City should be advised that this type of definition for a political sign has been held, in a number of recent court decisions, to violate the First Amendment. Political speech cannot be tied to a pending ballot issue or candidacy for public office. While this is not an ASA issue, it is a legal issue of constitutional dimension, and the city attorney's office and the City's outside legal counsel should be reviewing issues like this to make sure we don't get in legal hot water.
- Definitions ("Sign, intermittent or flashing"). The phrase "alternates with a lit and unlit effect" is overly broad, and could pertain to any illuminated sign in the city that is turned on and off during the course of the day, which means - all of them. I know what the city is after - avoiding signs that could have a distracting appearance. This definition uses a sledgehammer where surgical instruments are called for. If the staff is willing, I would be happy to work with them on more surgical language.

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- Definitions ("Sign, advertising). There is a consistent and growing line of cases in the federal courts, and the Supreme Court, offering greater protection to commercial speech, placing the burden on local government to justify interference with the content of commercial speech, and holding local government liable for damages and legal fees where challenges are successful. I have cautioned the City a number of times that the prohibition on advertising copy is a clear-cut content-based regulation, and violates the Constitution. The whole notion that is evident in this draft of allowing brand identity, but prohibiting advertising copy, is fraught with fuzzy lines and raises the stakes for a constitutional challenge. A year ago, I would have mentioned this as a mere footnote to my comments, as the prospect of some businessperson challenging on the basis of the First Amendment seemed remote. With the lawsuits filed against Mesa and Glendale this past year, I think it is much less remote. Well intentions aside, this whole set of regulations on sign copy should be removed from the code.
- Definitions ("Sign, ceased"). I have already mentioned that this definition, and the proposed substantive restrictions, are an inartful and inadvisable way of dealing with obsolete sign copy and abandoned nonconforming signs. I would be happy to work with the staff, and the city attorney's office, on correcting this problem, if they are willing. If they are not, I am confident that the problem will raise its ugly head through politics (by some unfairly aggrieved business) and through legal action.

Appendix A-VI

Security Gate Design Guidelines

- Will this section of Appendix A address the pedestrian gate policy that CPTED and the DSD established a few years ago?

Basically, that policy identified a 21' clear area next to pedestrian gates. This area would have wrought iron fencing, low growing shrubs, and security lighting. In this way we allow pedestrian access while maintaining a minimum security and safety level.

appendix E

photometry/photometric plan

- It should be called a photometric plan, not a photometry plan. The industry in used to photometric.

Items 3, 4 and 5 should be deleted.

Item 2 should become no. 1 and say: "Photometric calculations detailing all exterior security lighting, shall be submitted and provided on a 50% screened landscape plan that has been approved by the Design Review Board..." Delete the next line which refers to screening the landscape plan.

Add a new line which states: "Include light fixture schedule on photometric plan."

Change item 1, "cut sheets" to number 3.